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13
14 *Attorneys for Plaintiffs Penn Engineering &*
Manufacturing Corp. and PEM Management, Inc.

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16
17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

19
20 PENN ENGINEERING &
21 MANUFACTURING CORP., and
22 PEM MANAGEMENT, INC.,

23 v.
24 Plaintiffs,

25 PENINSULA COMPONENTS, INC.,
26
27 Defendant.

28 Case No. C07 04231 CRB

DECLARATION OF REBECCA A.
BEYNON

1 I, Rebecca A. Beynon, declare and state as follows:

2 1. I am a partner in the law firm of Kellogg, Huber, Hansen, Todd, Evans & Figel,
3 P.L.L.C., counsel to Plaintiffs in the above-captioned proceeding. I respectfully submit this
4 declaration pursuant to Local Rule 16-9, in support of Plaintiffs' Case Management Conference
5 Statement.

6 2. Plaintiffs have attempted in good faith to prepare a joint case management
7 conference statement, as contemplated by this Court's rules.

8 3. On November 6, 2007, my partner Kevin B. Huff and I contacted Andrew Weill,
9 counsel to Defendant in this matter, to meet and confer regarding initial disclosures and a
10 discovery plan.

11 4. On November 8, 2007, I sent Mr. Weill, via e-mail, a draft of a proposed joint
12 case management conference statement, and requested that Mr. Weill provide comments on that
13 document. A true and correct copy of this e-mail is attached hereto as Exhibit A.

14 5. On November 9, 2007, Mr. Huff and I called Mr. Weill at his offices, but he was
15 not available. I then sent Mr. Weill an e-mail, reminding him that we wanted to follow up on
16 this matter. A true and correct copy of that e-mail is attached hereto as Exhibit B.

17 6. I did not hear from Mr. Weill until November 13, 2007, when he sent me and Mr.
18 Huff an e-mail stating that Defendant was associating in additional counsel, and that he hoped to
19 be in touch to discuss outstanding items "tomorrow or Wednesday." A true and correct copy of
20 that e-mail is attached hereto as Exhibit C.

21 7. On November 14, 2008, Mr. Huff and I, together with an associate from our
22 office, Michael Joffre, contacted Mr. Weill. We notified him via voicemail that, since we had
23 not heard from Defendant, Plaintiffs would be filing a separate case management conference
24 statement, pursuant to Local Rule 16-9.

25 8. A few minutes after we left this voicemail, Mr. Weill sent an e-mail stating that,
26 while "we will try to reach you just as soon as possible," "realistically we may not be able to
27 handle this until tomorrow." A true and correct copy of this e-mail is attached hereto as
28 Exhibit D.

9. I responded to Mr. Weill (and his new co-counsel, Richard Nebb), via e-mail, that Plaintiffs would file a separate case management conference statement, as Plaintiffs did not wish to miss meeting a deadline set by the Court. In this e-mail, I informed Mr. Weill that Plaintiffs stand ready, however, to continue to discuss these matters and are prepared to submit a joint case management conference statement together with Defendant. A true and correct copy of this e-mail is attached hereto as Exhibit E.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 14th day of November, 2007, in Bethesda, Maryland.

Rebecca A. Beynon

EXHIBIT A

Beynon, Rebecca A.

From: Beynon, Rebecca A.
Sent: Thursday, November 08, 2007 11:25 AM
To: 'Andrew J. Weill'
Cc: Huff, Kevin B.; Joffre, Michael E.; Gagliardi, Don
Subject: Penn v. Peninsula Components
Attachments: KHHTE_DOCS-#239902-v4-Joint_Case_Management_Statement_.DOC

Andy:

As we discussed on Tuesday, attached please find a draft joint case management conference statement. This tracks the requirements set forth in the Northern District of California's Standing Order for such statements. As we've discussed, the statement is due on November 14, 2007.

Please let us know of your comments. Would it make sense for us to talk this afternoon or tomorrow morning?

Regards,

Rebecca A. Beynon
Kellogg, Huber, Hansen, Todd,
Evans & Figel P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
Telephone: (202) 326-7934
Facsimile: (202) 326-7999

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EXHIBIT B

Beynon, Rebecca A.

From: Beynon, Rebecca A.
Sent: Friday, November 09, 2007 3:46 PM
To: Beynon, Rebecca A.; 'Andrew J. Weill'
Cc: Huff, Kevin B.
Subject: RE: Penn v. Peninsula Components

Andy:

Just left you a voice-mail, as we wanted to follow up on this. I'm at 202 326 7934.

Thanks very much.

From: Beynon, Rebecca A.
Sent: Thursday, November 08, 2007 11:25 AM
To: 'Andrew J. Weill'
Cc: Huff, Kevin B.; Joffre, Michael E.; Gagliardi, Don
Subject: Penn v. Peninsula Components

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EXHIBIT C

Beynon, Rebecca A.

From: Andrew J. Weill [aweill@ix.netcom.com]
Sent: Tuesday, November 13, 2007 6:20 PM
To: Beynon, Rebecca A.
Cc: Huff, Kevin B.
Subject: RE: Penn v. Peninsula Components

As you can see, we are associating in additional counsel. I will be conferring with him tomorrow and hope to get back to you on outstanding items tomorrow or Wednesday.

-----Original Message-----

From: Beynon, Rebecca A. [mailto:RBEYNON@khhte.com]
Sent: Friday, November 09, 2007 12:46 PM
To: Beynon, Rebecca A.; Andrew J. Weill
Cc: Huff, Kevin B.
Subject: RE: Penn v. Peninsula Components

Andy:

Just left you a voice-mail, as we wanted to follow up on this. I'm at 202 326 7934.

Thanks very much.

From: Beynon, Rebecca A.
Sent: Thursday, November 08, 2007 11:25 AM
To: 'Andrew J. Weill'
Cc: Huff, Kevin B.; Joffre, Michael E.; Gagliardi, Don
Subject: Penn v. Peninsula Components

Andy:

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Please let us know of your comments. Would it make sense for us to talk this afternoon or tomorrow morning?

Regards,

Rebecca A. Beynon
Kellogg, Huber, Hansen, Todd,
Evans & Figel P.L.L.C.
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EXHIBIT D

Beynon, Rebecca A.

From: Andrew J. Weill [aweill@ix.netcom.com]
Sent: Wednesday, November 14, 2007 4:52 PM
To: Beynon, Rebecca A.
Cc: Huff, Kevin B.
Subject: RE: Penn v. Peninsula Components

We are meeting at 2:00 this afternoon.. We will try to reach you just as soon as possible, but realistically we may not be able to handle this until tomorrow.

I think that our primary obligation is to attempt to reach a joint statement and that the Court will not be bothered by a one-day delay. I strongly urge that you hold off on filing until after we have tried to finalize a joint statement. Should we not reach a joint agreement, we can still file separate statements.

Andrew J. Weill
Benjamin, Weill & Mazer, APC
235 Montgomery Street, Suite 760
San Francisco, CA 94104

415.421.0730 voice
415.421.2355 fax
weill@bwmlaw.com

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EXHIBIT E

Beynon, Rebecca A.

From: Beynon, Rebecca A.
Sent: Wednesday, November 14, 2007 4:57 PM
To: 'Andrew J. Weill'; 'rnebb@vierramagen.com'
Cc: Huff, Kevin B.; Joffre, Michael E.; Gagliardi, Don; Morton, Mindy
Subject: RE: Penn v. Peninsula Components

Andy/Richard:

As we indicated in the voicemail we left for you earlier today, the joint case management report, a draft of which we provided to you for comment last Thursday, is due today. We have not received any comments from you on this document, although we have tried to reach you on several occasions to discuss.

We understand that are meeting internally to discuss the case. However, it is nearly 5 pm here in Washington, and we do not wish to miss a deadline set by the Court. Accordingly, pursuant to Local Rule 16-9, we plan to go file a separate case management statement today. We will note in that statement that we are continuing to discuss these issues with you, and that we may be submitting a joint statement shortly.

Please let us know if you have any questions. I can be reached at 301 312 8089 for the rest of the day today.

Regards,

Rebecca A. Beynon
Kellogg, Huber, Hansen, Todd,
Evans & Figel P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
Telephone: (202) 326-7934
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From: Andrew J. Weill [mailto:aweill@ix.netcom.com]
Sent: Wednesday, November 14, 2007 4:52 PM
To: Beynon, Rebecca A.
Cc: Huff, Kevin B.
Subject: RE: Penn v. Peninsula Components

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